

HOUSE BILL NO. 101

INTRODUCED BY JENT

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A NONRESIDENT MAY NOT APPLY FOR ~~AND~~  
OR PURCHASE FOR A NONRESIDENT'S USE A RESIDENT WILDLIFE CONSERVATION LICENSE OR  
HUNTING OR FISHING LICENSE OR PERMIT AND PROVIDING A PENALTY FOR VIOLATION OF THIS  
PROVISION; AUTHORIZING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ISSUE LICENSES  
BY TELEPHONE, ON THE INTERNET, OR BY OTHER ELECTRONIC MEANS; PROVIDING THAT LICENSES  
NEED NOT BE SUBSCRIBED TO OR COUNTERSIGNED BY THE PERSON ISSUING THE LICENSE;  
~~AUTHORIZING A WARDEN TO REQUIRE OR REQUEST ADDITIONAL PROOF OF IDENTIFICATION FROM~~  
~~A HUNTING LICENSE HOLDER OR PERMIT HOLDER~~; REVISING THE LAWS GOVERNING MISDEMEANOR  
AND FELONY POSSESSION OF HUNTING LICENSES; ESTABLISHING THE OFFENSE OF MISDEMEANOR  
AND FELONY POSSESSION OF FISHING LICENSES AND PERMITS; AUTHORIZING THE DEPARTMENT  
TO ADOPT RULES THAT PRESCRIBE ELIGIBILITY STANDARDS FOR LICENSES OR PERMITS OBTAINED  
BY TELEPHONE, BY MAIL, ON THE INTERNET, OR BY OTHER ELECTRONIC MEANS; CLARIFYING THAT  
A PERSON MAY NOT CARRY A LICENSE OR PERMIT OBTAINED IN VIOLATION OF APPLICABLE LAW OR  
RULE; ALLOWING A PERSON WHO WISHES TO RECEIVE A BOWHUNTING LICENSE TO COMPLETE A  
NATIONAL BOWHUNTER EDUCATION FOUNDATION PROGRAM OR ANOTHER BOWHUNTER EDUCATION  
PROGRAM APPROVED BY THE DEPARTMENT; AMENDING SECTIONS 87-2-103, 87-2-105, 87-2-106,  
87-2-107, ~~87-2-109~~; AND 87-2-114, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-2-103, MCA, is amended to read:

**"87-2-103. License required.** (1) Except as provided in subsection (2), it is unlawful for a person to:

- (a) hunt or trap or attempt to hunt or trap any game animal, any game bird, or any fur-bearing animal or to fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds, except as provided by law or as provided by the department; or



1 (b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or to fish  
2 for any fish, except at the places and during the periods and in the manner defined by law or as defined by the  
3 department; or

4 (c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for  
5 any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or  
6 parts of fur-bearing animals without first having obtained a proper and valid license or permit from the  
7 department to do so; or

8 (d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in  
9 87-2-603, if that person is not a resident as defined in 87-2-102.

10 (2) The provisions of this section do not require a person who accompanies a licensed disabled hunter,  
11 as authorized under 87-2-803(4), to be licensed in order to kill or attempt to kill a game animal that has been  
12 wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal.  
13 However, the person must meet the qualifications for a license in the person's state of residence."  
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15 **SECTION 2. SECTION 87-2-105, MCA, IS AMENDED TO READ:**

16 **"87-2-105. Safety instruction required.** (1) A hunting license may not be issued to a resident person  
17 who is under 18 years of age unless the person authorized to issue the license receives a certificate of  
18 completion from the Montana youth hunter safety and education course established in subsection (5).

19 (2) A hunting license may not be issued to a nonresident person who is under 18 years of age unless  
20 the person authorized to issue the license receives a certificate of completion from the Montana youth hunter  
21 safety and education course established in subsection (5) or a certificate verifying that the nonresident has  
22 successfully completed a hunter safety course in any state or province.

23 (3) A hunting license may not be issued to a member of the regular armed forces of the United States  
24 or to a member of the armed forces of a foreign government attached to the armed forces of the United States  
25 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to  
26 a member's dependents, as defined in 15-30-113, who reside in the member's Montana household, unless the  
27 person authorized to issue the license receives proof of completion of a hunter safety course approved by the  
28 department or a certificate verifying that the member or dependent has successfully completed a hunter safety  
29 course in any state or province.

30 (4) A bow and arrow license may not be issued to a resident or nonresident unless the person

1 authorized to issue the license receives an archery license issued for a prior hunting season or receives proof  
 2 of completion of a bowhunter education course from the national bowhunter education foundation or any other  
 3 bowhunter education program approved by the department. Neither the department nor the license agent is  
 4 required to provide records of past archery license purchases. As part of the department's bow and arrow  
 5 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

6 (5) The department shall provide for a youth hunter safety and education course that includes instruction  
 7 in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as  
 8 one of its objectives the promotion of hunter safety and education. The department may designate as an  
 9 instructor any person it finds to be competent to give instructions to youth in hunter safety and education,  
 10 including the handling of firearms. A person appointed shall give the course of instruction and shall issue a  
 11 certificate of completion from Montana's youth hunter safety and education course to a person successfully  
 12 completing the course.

13 (6) The department shall provide for a course of instruction from the national bowhunter education  
 14 foundation or any other bowhunter education program approved by the department and for that purpose may  
 15 cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling  
 16 of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to  
 17 give ~~the national bowhunter education foundation~~ instruction. A person appointed shall give the course of  
 18 instruction and shall issue a certificate of completion ~~from the national bowhunter education foundation~~ to any  
 19 person successfully completing the course.

20 (7) The department may develop an adult hunter education course.

21 (8) The department may adopt rules regarding how a person authorized to issue a license determines  
 22 proof of completion or achievement."

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24 **Section 3.** Section 87-2-106, MCA, is amended to read:

25 **"87-2-106. Application for license -- penalties for violation -- forfeiture of privileges.** (1) A license  
 26 may be procured from the director, a warden, or an authorized agent of the director. The applicant shall state  
 27 the applicant's name, age, [social security number,] occupation, street address of permanent residence, mailing  
 28 address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United  
 29 States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant  
 30 for a resident license shall present a valid Montana driver's license, Montana driver's examiner's identification

1 card, or other identification specified by the department to substantiate the required information. It is the  
 2 applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase  
 3 a license. It is ~~unlawful and~~ a misdemeanor for a license agent to sell a hunting, fishing, or trapping license to  
 4 an applicant who fails to produce the required identification at the time of application for licensure. Except as  
 5 provided in subsections (2) through (4), the statements made by the applicant must be subscribed to before the  
 6 officer or agent issuing the license.

7 (2) Except as provided in subsection (3), department employees or officers may issue licenses by  
 8 telephone, by mail, on the internet, or by other electronic means. Statements on an application for a license to  
 9 be issued by telephone, by mail, on the internet, or by other electronic means need not be subscribed to before  
 10 the employee or officer.

11 (3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director  
 12 and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of  
 13 87-2-102(7). The director shall process the application in an expedient manner.

14 (4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing  
 15 license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.

16 (5) A license is void unless subscribed to by the licensee ~~and by an employee or officer of the~~  
 17 ~~department or by a license agent or an authorized representative of the license agent.~~

18 (6) It is unlawful to subscribe to or make any statement, on an application or license, that is materially  
 19 false. Any material false statement contained in an application renders the license issued pursuant to it void. A  
 20 person violating any provision of this subsection is guilty of a misdemeanor.

21 (7) It is unlawful for a nonresident to apply for and OR purchase for a nonresident's use a THE FOLLOWING  
 22 resident LICENSES AND PERMITS:

23 (a) wildlife conservation license;

24 (b) hunting license or permit; or

25 (c) fishing license or permit.

26 ~~(7)(8)~~ (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming  
 27 to or making a false statement to obtain a resident license or who is convicted of applying for or purchasing a  
 28 resident license in violation of subsection (7) shall be:

29 (i) fined not less than the greater of \$100 or twice the cost of the nonresident license that authorized  
 30 the sought-after privilege or more than \$1,000;

1 (ii) imprisoned in the county jail for not more than 6 months; or

2 (iii) both fined and imprisoned.

3 (b) In addition to the penalties specified in subsection ~~(7)(a)~~ (8)(a), upon conviction or forfeiture of bond  
4 or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt, fish,  
5 and trap in Montana for not less than 18 months.

6 ~~(9)~~(9) It is ~~unlawful and~~ a misdemeanor for a person to purposely or knowingly assist an unqualified  
7 applicant in obtaining a resident license in violation of this section.

8 ~~(9)~~(10) The department shall keep the applicant's social security number confidential, except that the  
9 number may be provided to the department of public health and human services for use in administering Title  
10 IV-D of the Social Security Act.]

11 ~~(40)~~(11) The department shall delete an applicant's social security number in any electronic database  
12 [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or  
13 is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

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15 **Section 4.** Section 87-2-107, MCA, is amended to read:

16 **"87-2-107. License form.** The form of the license shall must be determined and the license blanks  
17 prepared by the department and furnished by it to the officers and persons authorized to issue the ~~same~~ license.  
18 ~~Said licenses shall~~ Licenses must be issued in the name of the department ~~and be countersigned by the officer~~  
19 ~~or person issuing the same.~~ Each license issued shall must be signed by the licensee in ink or indelible pencil  
20 on the face thereof of the license."

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22 ~~Section 5.~~ Section 87-2-109, MCA, is amended to read:

23 ~~"87-2-109. Carrying and exhibiting license, permit, and identification.~~ (1) Except as provided in  
24 87-2-114(2), it is unlawful for a person to whom a license or permit has been issued to fish, to hunt for any game  
25 bird or game animal, or to attempt to hunt for any fur-bearing animal in this state unless the person is carrying  
26 the each required license, licenses, or permit at the time.

27 ~~(2) It is unlawful to refuse to exhibit a license or permit and the~~ any identification used in purchasing a  
28 license or permit for inspection to a warden or other officer requesting to see it. A warden may require the  
29 person, if 18 years of age or older, to exhibit photo identification. The warden may request the person to write  
30 the person's signature for comparison and verification with the signature on the wildlife conservation license."

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**Section 5.** Section 87-2-114, MCA, is amended to read:

**"87-2-114. Unlawful Misdemeanor and felony possession of hunting or fishing license or permit of another -- penalties.** (1) Except as provided in subsection (2), ~~it is unlawful for a~~ a person to ~~commits the~~ offense of unlawful possession of a hunting or fishing license or permit if the person ~~carry~~ KNOWINGLY, AS DEFINED IN 45-2-101, carries or have has physical control over a valid and unused:

(a) hunting license or permit issued to another person while in any location that the species to be hunted may inhabit;

(b) resident hunting license or permit or resident fishing license or permit issued to a nonresident; or

(c) hunting license or permit or fishing license or permit, knowing, as defined in 45-2-101, that the license or permit was issued in violation of applicable law or rule.

(2) The following exceptions apply to the prohibition in subsection (1):

(a) A person may carry or have physical control over a license or permit issued to that person's spouse or to any minor when the spouse or minor is hunting with that person.

(b) The prohibition does not apply to a properly obtained and validated license or permit attached to a lawfully killed game animal.

(3) Except as provided in subsection (4), a person who violates this section is guilty of a misdemeanor and is punishable as provided in 87-1-102(1).

(4) A person who violates this section while engaged in a commercial activity, such as taxidermy, meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting licenses that are issued to another person or persons and that are used or intended to be used on game animals not taken by the person or persons to whom the licenses were issued; or by KNOWINGLY, AS DEFINED IN 45-2-101, carrying, having physical control of, or selling two or more licenses or permits, knowing, as defined in 45-2-101, that the permits were issued in violation of applicable law or rule, is guilty of a felony and upon conviction shall be fined not more than \$50,000, imprisoned in the state prison for not more than 5 years, or both.

(5) In addition to the penalties set out in subsections (3) and (4), a person convicted under this section or who pleads guilty to a violation of this section shall lose all hunting, fishing, and trapping permit and license privileges for not less than 3 years or up to a lifetime revocation from the date of conviction."

**NEW SECTION. Section 6. Eligibility standards for licenses or permits obtained by telephone,**

1 **mail, or electronic means -- rulemaking.** The department may adopt rules that prescribe requirements  
2 necessary to determine that an applicant meets the eligibility requirements provided in this part when the  
3 applicant obtains a license or permit by telephone, by mail, on the internet, or by other electronic means.

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5 NEW SECTION. Section 7. Codification instruction. ~~[Section 6]~~ ~~[SECTION 7]~~ ~~[SECTION 6]~~ is intended  
6 to be codified as an integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part 1,  
7 apply to ~~[section 6]~~ ~~[SECTION 7]~~ ~~[SECTION 6]~~.

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9 NEW SECTION. Section 8. Saving clause. [This act] does not affect rights and duties that matured,  
10 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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12 NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are  
13 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
14 the part remains in effect in all valid applications that are severable from the invalid applications.

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16 NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 2003.

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